State of California
Office of Administrative Law

In re: **Department of Corrections and Rehabilitation**	**NOTICE OF APPROVAL OF REGULATORY ACTION**
Regulatory Action:	**Government Code Section 11349.3**
Title 15, California Code of Regulations	**OAL Matter Number: 2022-1011-03**
Adopt sections: **Amend sections: 3190** **Repeal sections:**	**OAL Matter Type: Regular (S)**

In this regular rulemaking action, the Department of Corrections and Rehabilitation updates regulations related to personal and religious personal property, including the Religious Personal Property Matrix (RPPM) and Request for Additional Item form, incorporated by reference.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 1/1/2023.

Date: November 22, 2022

Amy R. Gowan
Senior Attorney

For: Kenneth J. Pogue
Director

Original: Kathleen Allison, Secretary
Copy: Rosie Ruiz

DocuSign Envelope ID: A6415CEC-EB5D-4ECB-B9A3-1A895A2AAA15

STATE OF CALIFORNIA--OFFICE OF ADMINISTRATIVE LAW

NOTICE PUBLICATION/REGULATIONS SUBMISSION

REGULAR

STD. 400 (REV. 10/2019)

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
	Z-2021-1118-01	2022-1011-03 S	

For use by Office of Administrative Law (OAL) only

OFFICE OF ADMIN. LAW
2022 OCT 11 PM2:24

NOTICE

REGULATIONS

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

NOV 22 2022

1:55PM

AGENCY WITH RULEMAKING AUTHORITY: California Department of Corrections and Rehabilitation

AGENCY FILE NUMBER (If any): 20-22

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE
TITLE(S)
FIRST SECTION AFFECTED
2. REQUESTED PUBLICATION DATE

3. NOTICE TYPE
☐ Notice re Proposed Regulatory Action ☐ Other
4. AGENCY CONTACT PERSON
TELEPHONE NUMBER
FAX NUMBER (Optional)

OAL USE ONLY — ACTION ON PROPOSED NOTICE: ☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/ Withdrawn
NOTICE REGISTER NUMBER: 2021, 49-Z
PUBLICATION DATE: 12/3/2021

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S): Religious Personal Property

1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S): Z2021-1118-01

2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) **(Including title 26, if toxics related)**

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)

ADOPT

AMEND: 3190

REPEAL

TITLE(S): 15

3. TYPE OF FILING

☒ Regular Rulemaking (Gov. Code §11346)
☐ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)
☐ Emergency (Gov. Code, §11346.1(b))
☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.
☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)
☐ Emergency Readopt (Gov. Code, §11346.1(h))
☐ File & Print
☐ Other (Specify)
☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
☐ Print Only

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)
March 7, 2022-March 25, 2022; June 8, 2022-June 23, 2022

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)
☒ Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))
☐ Effective on filing with Secretary of State
☐ §100 Changes Without Regulatory Effect
☐ Effective other (Specify)

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY
☐ Department of Finance (Form STD. 399) (SAM §6660)
☐ Fair Political Practices Commission
☐ State Fire Marshal
☐ Other (Specify)

7. CONTACT PERSON: Rosie Ruiz
TELEPHONE NUMBER: (916) 445-2244
FAX NUMBER (Optional):
E-MAIL ADDRESS (Optional): Rosie.Ruiz@cdcr.ca.gov

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE: DocuSigned by: Jeffrey Macomber 5957F5D0C55F473...
DATE: 9/20/2022

TYPED NAME AND TITLE OF SIGNATORY: Jeff Macomber, Undersecretary, Operations

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

NOV 22 2022

Office of Administrative Law

TEXT OF PROPOSED REGULATIONS

In the following text, ~~strikethrough~~ indicates deleted text; <u>underline</u>, indicates added text.

California Code of Regulations, Title 15. Crime Prevention and Corrections

Division 3. Adult Institutions, Programs and Parole

Chapter 1. Rules and Regulations of Adult Operations and Programs

Subchapter 2. Inmate Resources

Article 9. Personal Property and Religious Personal Property

3190. General Policy.

Subsection 3190(a) is unchanged.

Subsection 3190(b) is amended to read:

(b) Specific items of personal ~~and religious~~ property shall be established by a consensus of individual facilities within the Division of Adult Institutions. An Authorized Personal Property Schedule, identifying a list of allowable property, not including religious property, shall be developed and updated no more frequently than twice yearly. Local facility exemptions to the property lists shall also be identified. All changes to the Authorized Personal Property Schedule shall be adopted in accordance with the rulemaking requirements of the Administrative Procedure Act (Government Code ~~S~~<u>s</u>ections 11340 through 11350.3) and, if applicable, Penal Code <u>section</u> 5058.3. ~~The Religious Personal Property Matrix (Revised 6/27/13) identifies a separate list of allowable personal religious property, and is incorporated by reference. The Religious Personal Property Matrix shall be developed and updated by the Statewide Religious Review Committee no more frequently than twice yearly. Local exceptions to the Religious Personal Property Matrix shall also be identified. All changes to the Religious Personal Property Matrix shall be adopted in accordance with the rulemaking requirements of the Administrative Procedure Act (Government Code Sections 11340 through 11350.3) and, if applicable, Penal Code 5058.3.~~

<u>The following five property lists are incorporated by reference:</u>

(1) Authorized Personal Property Schedule - Reception Center Male Inmates (Rev. 12/20/21). This personal property schedule applies to all facilities which operate Male Reception Center Housing.

(2) Authorized Personal Property Schedule - General Population Levels I, II, and III, Male Inmates (Rev. 12/20/21). This personal property schedule applies to all facilities which operate Levels I, II, III Male Inmate Housing.

(3) Authorized Personal Property Schedule - Level IV Male Inmates (Rev. 12/20/21). This personal property schedule applies to all facilities which operate Level IV Male Inmate Housing.

(4) Authorized Personal Property Schedule - Administrative Segregation Units (ASU) ~~/~~<u>,</u> Security Housing Units (SHU) ~~/~~<u>, or</u> Psychiatric Services Units (PSU) Male Inmates

(Rev. 12/20/21). This personal property schedule applies to all facilities which operate ASU ~~/~~, SHU ~~/~~, or PSU Male Inmate Housing.

(5) Authorized Personal Property Schedule - Female Inmates (Rev. 12/20/21). This personal property schedule applies to all facilities which operate Female Inmate Housing.

Text regarding authorized religious personal property is relocated from subsection 3190(b) to new subsection 3190(c), and is amended to read:

(c) The Religious Personal Property Matrix (RPPM) (Revised 1/1/23) identifies a separate list of allowable personal religious property, and is incorporated by reference. The RPPM shall be developed and updated by the Statewide Religious Review Committee (SRRC) no more frequently than twice yearly. Local exceptions to the RPPM shall also be identified.

New subsection 3190(c)(1) is adopted to read:

(1) Inmate requests for additional religious personal property items to be added to the RPPM shall be submitted to the local Religious Review Committee (RRC) on a CDCR Form 2279 (Rev. 10/21), Religious Personal Property Matrix (RPPM) Request for Additional Item, which is incorporated by reference. The local RRC shall review the request and forward the CDCR Form 2279 with a recommendation to the SRRC for review and decision.

New subsection 3190(c)(2) is adopted to read:

(2) All changes to the RPPM shall be adopted in accordance with the rulemaking requirements of the Administrative Procedure Act (Government Code sections 11340 through 11350.3) and, if applicable, Penal Code section 5058.3.

Existing subsections 3190(c) through 3190(s) are renumbered 3190(d) through 3190(t), and text is unchanged.

~~(c)~~(d) [No change to text.]

~~(d)~~(e) [No change to text.]

~~(d)(1)~~(e)(1) [No change to text.]

~~(d)(2)~~(e)(2) [No change to text.]

~~(e)~~(f) [No change to text.]

~~(f)~~(g) [No change to text.]

~~(g)~~(h) [No change to text.]

~~(h)~~(i) [No change to text.]

~~(i)~~(j) [No change to text.]

~~(j)~~(k) [No change to text.]

~~(k)(1)~~ through ~~(k)(8)~~ are renumbered (l)(1) through (l)(8). [No change to text.]

~~(l)~~(m) [No change to text.]

~~(l)(1)~~ through ~~(l)(5)~~ are renumbered (m)(1) through (m)(5). [No change to text.]

~~(m)~~(n) [No change to text.]

~~(n)~~(o) [No change to text.]

~~(o)~~(p) [No change to text.]

~~(p)~~(q) [No change to text.]

~~(q)~~(r) [No change to text.]

~~(r)~~(s) [No change to text.]

~~(s)~~(t) [No change to text.]

Existing subsection 3190(t) is renumbered 3190(u) and amended to read:

(~~t~~u) Inmates shall ~~not~~ be permitted to possess ~~any~~ membership cards, identification cards, or service-type cards ~~other than~~ in addition to those issued by the department in accordance with subsection 3237(c).

Existing subsections 3190(u) and 3190(v) are renumbered 3190(v) and 3190(w). Text is unchanged.

~~(u)~~(v) [No change to text.]

~~(v)~~(w) [No change to text.]

NOTE: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 2086, 2601, 5006 and 5054, Penal Code; *In re Alcala*, Marin County Superior Court, No. 117925, December 20, 1984; *Armstrong v. Davis Court Ordered Remedial Plan*, Amended January 3, 2001; *In re Armstrong,* N.D. Cal, No. C 94-02307, March 20, 1998; and *Quine v. Beard*, No. C 14-02726 JST, *Rhoades v. Montgomery*, No. EHC01917, *Taylor v. Hubbard*, No. CV-00404-BAM PC, *Rouser v. White* Settlement Agreement, No. CV-0767-LKK-GGH(PC), and Religious Land Use and Institutionalized Persons Act, 42 United States Code sections 2000cc et seq.

RELIGIOUS PERSONAL PROPERTY MATRIX (RPPM)

(Revised 1/1/23)

RELIGIOUS PERSONAL PROPERTY FOR LEVEL I, II, III, IV, CAMPS, AND COMMUNITY CORRECTIONAL FACILITIES INMATES

1. **PURPOSE:** THE RELIGIOUS PERSONAL PROPERTY MATRIX APPLIES TO BOTH MALE AND FEMALE INMATES, AND REFLECTS PERSONAL RELIGIOUS PROPERTY THAT INMATES MAY POSSESS. CONGREGATE / GROUP RELIGIOUS ITEMS WILL BE DETERMINED BY THE LOCAL RELIGIOUS REVIEW COMMITTEE (RRC).

2. RELIGIOUS TEXTS: (I.E. E.G., TORAH, HOLY QURAN, VEDAS, POETIC EDDA, BIBLE, ETC.) SHALL BE PERMITTED AS AUTHORIZED IN CALIFORNIA CODE OF REGULATIONS (CCR), TITLE 15, SECTION 3190(j)(7). THE NUMBER OF TEXTS SHALL NOT EXCEED THE LIMIT ALLOWED BY THE AUTHORIZED PERSONAL PROPERTY SCHEDULE (APPS).

3. EXEMPTION REQUESTS: INMATES ARE PERMITTED PERSONAL RELIGIOUS ITEMS LISTED IN THIS MATRIX. FACILITIES MAY SUBMIT REQUESTS TO BE EXEMPTED FROM THE RELIGIOUS PERSONAL PROPERTY ITEMS DETAILED IN THIS MATRIX. REQUESTS SHALL BE SUBMITTED TO THE STANDARDIZED PROCEDURES UNIT OFFICE OF POLICY STANDARDIZATION, RELIGIOUS PROGRAMS OVERSIGHT UNIT WITH A COPY TO THE APPROPRIATE MISSION BASED ASSOCIATE DIRECTOR. ALL REQUESTS MUST INCLUDE RATIONALE AND SUPPORTING DATA**.**

4. COLOR RESTRICTIONS: ITEMS SHALL BE WHITE, GRAY OR MULTICOLORED ONLY UNLESS OTHERWISE NOTED. MULTICOLORED ITEMS SHALL HAVE WHITE OR GRAY AS THE PREDOMINANT COLOR. INMATES ARE PROHIBITED FROM POSSESSING, USING, CREATING, OR WEARING PERSONAL RELIGIOUS CLOTHING ITEMS IN ANY PREDOMINANT SHADE OF GREEN, BLACK, BROWN, TAN, YELLOW, RED, OR BLUE UNLESS OTHERWISE INDICATED. MULTICOLORED ITEMS SHALL CONSIST OF THREE OR MORE COLORS AND NOT APPEAR TO BE PREDOMINANTLY ONE OF THE RESTRICTED COLORS PREVIOUSLY LISTED HEREIN.

5. RELIGIOUS CLOTHING: INMATES ARE PERMITTED TO WEAR AND POSSESS PERSONAL RELIGIOUS ITEMS AS INDICATED IN THIS MATRIX.

6. RELIGIOUS CLOTHING PROHIBITIONS AND AUTHORIZATIONS: INMATES ARE PROHIBITED FROM POSSESSING, USING, CREATING, OR WEARING PERSONAL RELIGIOUS CLOTHING:

a. WITH HOODS, PICTURES, DECORATIVE ZIPPERS, OR INSIDE POCKETS, OR ZIPPERED POCKETS.

b. INMATES ARE PROHIBITED FROM POSSESSING, USING, CREATING OR WEARING ANY ITEMS WITH ANY DESIGN, SIGN, SYMBOL, OR ILLUSTRATION IDENTIFIED AS BEING ASSOCIATED WITH A SECURITY THREAT GROUP.

c. ALL INMATES ARE PROHIBITED FROM POSSESSING, USING, CREATING, OR WEARING ITEMS WHICH ARE OBSCENE, AS DESCRIBED IN CCR, TITLE 15 SECTION 3008, OR WHICH HAVE LOGOS, CODED MESSAGES, LETTERING, PICTURES WHICH ADVERTISE OR DEPICT ALCOHOL, SECURITY THREAT GROUPS, PROFANITY, SEX, WEAPONS, DRUGS, OR DRUG PARAPHERNALIA.

• d. ~~MALE INMATES SHALL NOT RECEIVE OR POSSESS ITEMS OF RELIGIOUS CLOTHING~~ DESIGNED AND MANUFACTURED SPECIFICALLY FOR ~~WOMEN~~ THE OPPOSITE SEX, UNLESS ~~AUTHORIZED FOR MEDICAL REASONS~~ IDENTIFIED AND DOCUMENTED AS TRANSGENDER. TRANSGENDER WOMEN HOUSED IN MALE INSTITUTIONS ARE AUTHORIZED TO POSSESS AND PURCHASE FEMALE HEADGEAR, AND TRANSGENDER MEN HOUSED IN FEMALE INSTITUTIONS ARE AUTHORIZED TO POSSESS AND PURCHASE MALE HEADGEAR.

7. ITEM USE LIMITATIONS: THESE ITEMS CANNOT BE WORN WHEN LEAVING INSTITUTION GROUNDS.

8. INMATE REQUEST FOR ADDITIONAL ITEMS: INMATE REQUESTS FOR ADDITIONAL RELIGIOUS PERSONAL PROPERTY ITEMS SHALL BE SUBMITTED TO THE LOCAL RELIGIOUS REVIEW COMMITTEE (RCC) UTILIZING FORM CDCR 2279 (Rev. 10/21), RELIGIOUS PERSONAL PROPERTY MATRIX (RPPM) REQUEST FOR ADDITIONAL ITEM. THE RRC WILL FORWARD THEIR RECOMMENDATIONS TO THE STATEWIDE RELIGIOUS REVIEW COMMITTEE.

9. CONSIDERATIONS: DETERMINATIONS CONCERNING RELIGIOUS PERSONAL PROPERTY ITEMS FOR INDIVIDUAL INMATES IN SPECIALIZED HOUSING UNITS OR PROGRAMS (ASU~~/~~, PSU~~/~~, SHU~~/~~, and RC) MAY BE MADE ON A CASE-BY-CASE BASIS, BASED UPON THE INMATE'S BEHAVIOR~~/~~, MENTAL HEALTH STATUS~~/~~, SAFETY~~/~~ OR SECURITY NEEDS. DECISIONS MUST BE APPROVED BY THE RESPECTIVE HIRING AUTHORITIES OR DESIGNEES.

10. RESTRICTION OF APPROVED ITEMS: THE INSTITUTION HEAD OR DESIGNEE RETAINS THE AUTHORITY TO REMOVE OR RESTRICT USE OF AN APPROVED RELIGIOUS ITEM BASED ON A SERIOUS THREAT TO FACILITY SECURITY OR TO THE SAFETY OF INMATES AND STAFF IN ACCORDANCE WITH CCR, TITLE 15, SUBSECTION 3213(e). ANY MISUSE OF MATERIALS MAY RESULT IN LOSS OF PRIVILEGE.

Item Description With additional requirements and restrictions.	General Population	ASU~~/~~, PSU~~/~~, SHU
	PRIVILEGE GROUP	
	A, B, C Quantity	D Quantity
ALTAR CLOTH – ~~Maximum~~ ~~s~~Size not to exceed ~~24"~~ 36" x 24" or 914.4 millimeters [mm.] x 609.6 mm. ~~One item per inmate. White, gray, or multicolored~~ Refer to color restrictions (Page 1, Item 4).	**1**	~~**0**~~ **1**
~~**ASSORTED HERBS** - Mint, Cedar, Lavender, Sweet Grass, Sage, Bitterroot, Copal, Willow Leaves, Bear Root, and Sandalwood. Combined total quantity limited to four ounces or less at any time.~~	~~**4 oz.**~~	~~**0**~~
BEADED HEAD BAND, WRIST BAND, AND CHOKER – ~~Shall be multicolored. One of each item per inmate.~~ Item shall not exceed 1" or 25.4 mm. in width. Refer to Beading Materials. Refer to color restrictions (Page 1, Item 4). Refer to item use limitations. (Page 2, Item 7).	**1 ea.**	**0**
BEADING MATERIALS – Beads may be wood, plastic, or natural material (~~i.e.~~ e.g., stone, bone, seed, etc.) no larger than ¼" ~~in~~ diameter x ½" length or 6.35 mm. x 12.7 mm. Total quantity ~~limited to~~ not to exceed **12 hanks** (approximately 17 ounces). ~~Finished items shall be multi- colored.~~ **Sinew or ~~S~~string** in rolls ~~no greater than 50 feet~~ not to exceed 75 yards in length. **Needles**~~, limited to~~ quantity not to exceed ~~2~~ 5 per inmate, size 10 ~~and/~~or 12, not to exceed 2" or 304.8 mm. in length. **Barrel clasps** gold or silver in color only, size not to exceed 10 mm. x 5 mm. Quantity not to exceed 10 pieces. Beads may be any color but finished items shall be in accordance with color restrictions (Page 1, Item 4). ~~Any misuse of beading materials may result in loss of this privilege.~~	~~**12**~~ **As Specified**	**0**
BOWL~~/~~, CHALICE, HANDWASHING CUP – 4" or 101.6 mm. diameter wood or soft-pliable plastic. Items which are fabricated in a hard plastic (e.g., acrylic, high-density polyethylene, etc.) are not authorized.	**2**	**0**
CARRYING BAGS – Quantity not to exceed three small (5" x 7" or 127 mm. x 178 mm.) clear plastic or vinyl bags, and two large (10" x 14" or 254 mm. x 355.6 mm.) clear plastic or vinyl bags. May be re-sealable, no zippers. May only be carried to and from housing unit for authorized religious activities.	**3 Small** **2 Large**	**0**
CLAY PROSTRATION TABLET – Non-glazed clay. Not to exceed 2" x 2" or 50.8 mm. x 50.8 mm.	**1**	**0**
~~**CHALK** - Limited to one box containing 12 sticks of white non toxic chalk.~~	~~**1**~~	~~**0**~~

Item Description With additional requirements and restrictions.	**General Population**	**ASU~~/~~, PSU~~/~~, SHU**
	PRIVILEGE GROUP	
	A, B, C Quantity	**D Quantity**
~~**RELIGIOUS MEDALLION AND CHAIN** – Chain/Sinew/Leather not to exceed 24" in length, medallion (i.e. Thor's Hammer, Pentagram, Crucifix, Star of David, etc.) shall not exceed 1.5" in diameter, obtainable as a set only, value not to exceed $100. One set per inmate.~~	~~**1**~~	~~**1**~~
~~**DEVOTIONAL SCAPULAR** – Cloth only, not to exceed 2" x 2".~~	~~**1**~~	~~**0**~~
~~**DREAM CATCHER** -Sinew/simulated sinew hoop shall not exceed 4".~~	~~**1**~~	~~**0**~~
~~**FEATHERS** -Bird feathers are allowed up to a maximum length of 16". Feathers from an eagle may be obtained only via the U.S. Department of the Interior.~~	~~**12**~~	~~**0**~~
~~**HEAD GEAR –Males** -Including, but not limited to: Yarmulke (kippah), Kufi, Bandana, Fez, Patka, Rastafarian Crown. Maximum size 24" x 24". Two per inmate. White, gray, or multicolored (no red or blue).~~	~~**2**~~	~~**2**~~
CLOTHING: HEADGEAR – Females – Including, but not limited to: ~~S~~scarf, ~~H~~hijab, ~~B~~bandanna. ~~Maximum size~~ Not to exceed 44" x 66" or 1117.6 mm. x 1676.4 mm. in length. ~~Two per inmate. White, gray, or multicolored (no red or blue)~~ Refer to color restrictions (Page 1, Item 4). Transgender inmates, refer to religious clothing prohibitions (Page 2, Item 6d).	**2**	**2**
CLOTHING: HEADGEAR – Males – Including, but not limited to: yarmulke (kippah), kufi, bandanna, fez, patka, Rastafarian crown, scarf. Not to exceed 24" x 24" or 609.6 mm. x 609.6 mm. Refer to Color Restrictions (Page 1, Item 4). Refer to Item Use Limitations (Page 2, Item 7). Transgender inmates, refer to religious clothing prohibitions (Page 2, Item 6d).	**2**	**2**
~~**MEDICINE BAG** - Shall not exceed 2" x 3". Soft leather or other natural material without a liner.~~	~~**1**~~	~~**0**~~
CLOTHING: PRAYER SHAWL ~~OR SCARF~~ – (e.g. Tallit, khatas, etc.) Not to exceed 50" x 72" or 1270 mm. x 1830 mm. White or gray only. May have decorative embroidery stripes that are black, blue or gray and trims or tassels that are white or gray only. Prayer shawls or scarf to be worn in inmate bed area or authorized religious activity areas only. Purchase price not to exceed $150.	**1**	**1**
CLOTHING: RAKUSU – Rakusu kits are acceptable**.** No backing, lining, or pockets. May be worn in inmate bed area or authorized religious activity areas only. Purchase price not to exceed $100. White or gray only.	**1**	**1**
CLOTHING: TALLIT-KATAN/TSITSIT – Worn under the shirt. Value not to exceed $100. White or gray only.	**3**	**1**
COMPACT DISCS (CDs) RELIGIOUS – Factory sealed, pre-recorded only. Purchase from approved religious vendor catalogs only. Sets including DVDs shall not be permitted. Possession of a player is not required. Limit of 10 inclusive and not in addition to the quantity of CDs approved in the Approved Personal Property Schedule (APPS).	**10**	**0**

Item Description With additional requirements and restrictions.	**General Population**	**ASU~~/~~, PSU~~/~~, SHU**
	PRIVILEGE GROUP	
	A, B, C Quantity	**D Quantity**
DEVOTIONAL SCAPULAR – Cloth only, not to exceed 2" x 2" or 50.8 mm. x 50.8 mm, cord not to exceed 24" or 609.6 mm. in length.	**1**	**1**
DREAM CATCHER AND/OR MEDICINE WHEEL – Shall be constructed of wood or plastic, not to exceed 5" or 127 mm. Hoop may be wrapped with sinew, simulated sinew or ribbon. Shall be used in inmate bed area or designated worship areas only. May be received as a pre-assembled kit or finished item. Color of Medicine Wheel may be equal parts white, red, yellow and black. For color of dream catcher, refer to color restrictions (Page 1, Item 4). Refer to item use limitation (Page 2, Item 7).	**1**	**0**
FEATHERS – Bird feathers are not to exceed 16" or 406.4 mm. in length. Eagle feathers may be obtained only via the U.S. Department of the Interior and only by a member of a recognized Native American tribe.	**12**	**0**
HERBS – Mint, cedar, lavender, sweet grass, white sage, spearmint, peppermint, rosemary, common thyme, bitterroot, copal, willow leaves, bear root, and sandalwood. Combined total quantity not to exceed 4 oz. or 118.3 millileters: [ml.]. Must be dried and loose.	**4 oz.**	**0**
MISWAK – Small twig, not to exceed ~~7½~~ 8", used for oral hygiene.	~~**2**~~ **10**	**0**
POWDERS (Drawing powder) – Limited to eggshell powder. Total quantity ~~limited to~~ not to exceed ~~four ounces~~ 4 oz. or 118.3 ml. ~~or less at any time~~.	**4 oz.**	**0**
PRAYER BEADS – ~~e.g.,~~ Including, but not limited to, ~~M~~mala, ~~D~~dhikr, or ~~R~~rosary. ~~Wood, plastic, or natural material (i.e stone, bone, seed, etc.).~~ Chain, ~~S~~sinew, or ~~S~~string not to exceed 24" or 609.6 mm. Refer to Beading Materials (Page 3). Purchase price ~~N~~not to exceed $~~2~~50~~.00~~ ~~in value~~. Refer to color restrictions (Page 1, Item 4).	**1**	~~**1**~~ **0**
PRAYER~~/~~, HOLY CARDS~~/~~, DEITY PHOTOS – Not to exceed ~~4" x 6"~~ 8" x 10" or 203.4 mm. x 254 mm.	**10**	~~**0**~~ **10**
PRAYER OILS – (Non-alcoholic~~/~~, non-flammable oil). Allowable fragrances include~~:~~ ~~K~~kyphi, ~~F~~frankinmyrrh, ~~S~~sage, ~~C~~cedar, ~~Musk (any),~~ Arabian musk, Egyptian musk, ~~L~~lavender, ~~S~~sandalwood, and ~~R~~rose. Combined total quantity ~~limited to~~ not to exceed ~~four ounces or less~~ ~~at any time~~ 4 oz. or 118.3 ml. Oils, bottles and labels must be clear or transparent. Oil bottles are to be shrink-wrapped when received from the vendor.	**4 oz.**	**0**
PRAYER RUG~~/~~ OR MAT – 28" x 48" or 711.2 mm. x 1219.2 mm. or smaller, not to exceed ¼" or 6.35 mm. thick fabric. ~~Rug may be multicolored (no red or blue)~~ Refer to color restrictions (Page 1, Item 4).	**1**	**1**
~~**PRAYER SHAWL/SCARF** (i.e., Tallit, Khatas, etc.) – White or light gray only (may have decorative embroidery trim and/or tassels).~~	~~**1**~~	~~**1**~~

Item Description With additional requirements and restrictions.	**General Population**	**ASU~~/~~, PSU~~/~~, SHU**
	PRIVILEGE GROUP	
	A, B, C Quantity	**D Quantity**
RELIGIOUS MEDALLION AND CHAIN – Medallion (including, but not limited to, Cross, Crucifix, Medicine Wheel, pentagram, rosette, Star of David, Thor's hammer) not to exceed 1.5" or 38.1 mm. in diameter. Chain, leather, sinew (sinew may be beaded) not to exceed 24" or 609.6 mm. in length, not to exceed 3/16" or 4.8 mm. in diameter, individual links not to exceed 3/16" or 4.8 mm. in diameter. Obtainable as a set only. Purchase price not to exceed $100. May be worn either inside or outside of the shirt. Refer to item use limitations (Page 2, Item 7).	**1 Set**	**1 Set**
~~**RUNE TILES/SHELLS** – Runes/shells shall) not to exceed ¾" x ¾"One set per inmate with instruction book. Set shall not exceed 25 pieces. Runes shall be wood, plastic, or natural material (i.e., bone, stone, etc.).~~	~~**1 SET**~~	~~**0**~~
SEA SALT – White or black. Combined total quantity ~~limited to~~ not to exceed 4 oz. or 118.3 ml. ~~or less at any time.~~	**4 oz.**	**0**
SEA SHELLS – Not to exceed ½" or 12.7 mm. in diameter. One package of 18 shells. Refer to color restrictions (Page 1, Item 4).	**1 Set**	**0**
SPIRITUAL BAG – Including, but not limited to: medicine bag or rune bag. Bag not to exceed 2" x 3" or 50.8 mm. x 76.2 mm. Soft leather or cloth without a liner. Length of cord not to exceed 24" or 609.6 mm. May be worn either inside or outside of the shirt. Color may be natural leather or as specified in color restrictions (Page 1, Item 4). Refer to item use limitations (Page 2, Item 7).	**1**	**0**
STONES – Set of 5, ~~no larger than~~ not to exceed 1" or 25.4 mm. in diameter, or set of 10, ~~no larger than~~ not to exceed ½" or 12.7 mm. in diameter. Stones may include carved statue images (i.e. Buddha, Jesus, Mary). No sharp edges or made of obsidian.	**1 Set**	**0**
~~**TALLIT KATAN/TSITSIT-**Worn under one's shirt. White or light gray only.~~	~~**1**~~	~~**1**~~
TAROT~~/~~, DIVINATION~~/~~, RUNE CARDS – One set~~/~~ or deck per inmate.	**1 Set**	~~**0**~~ **1 Set**
TEFILLIN~~/~~, PHYLACTERIES – Purchase ~~value~~ price not to exceed $3~~0~~80~~.00~~. Carrying bag shall be clear plastic or vinyl only. May be x-rayed for inspection.	**1**	**0**
TILES – (i.e. runes) not to exceed 1"x1" or 25.4 mm. x 25.4 mm. May include instruction book. Set not to exceed 25 pieces. Tiles shall be wood, plastic, or natural material (e.g., bone, stone, etc.). Refer to color restrictions (Page 1, Item 4).	**1 Set**	**0**
WAND – Soft wood, pliable twig, not to exceed ½" wide by 7½" long or 12.7 mm. x 190.5 mm ~~by ½" wide~~. ~~If soft material is unavailable a pliable twig may be utilized.~~	**1**	**0**

RELIGIOUS PERSONAL PROPERTY MATRIX (RPPM) REQUEST FOR ADDITIONAL ITEM

Item Request for Next RPPM Revision (One Item per form)

PART 1 - RELIGIOUS ITEM REQUESTED (Completed by Inmate)			
INMATE NAME:	**CDCR #:**	**INMATE SIGNATURE:**	**DATE:**
INSTITUTION:	**HOUSING:**	**RELIGIOUS AFFILIATION:**	
ITEM REQUESTED:			
DESCRIPTION: (*Specify size, materials, removable pieces, type of construction and attach photograph or drawing of item.)*			
STATEMENT OF SIGNIFICANCE/NEED: *(Specify religious significance or need. Statements must be contained on this form.)*			
DESCRIBE WHY AN ITEM CURRENTLY LISTED ON THE RPPM, IS NOT SATISFACTORY:			
PART II - INSTITUTION RELIGIOUS REVIEW COMMITTEE (RRC) RECOMMENDATION			
OPERATIONAL CONCERNS: *(E.g., safety and security, size, infringement of other inmates' rights, etc.)*			
LEAST RESTRICTED ALTERNATIVE(S) CONSIDERED: *(E.g., other items on RPPM, symbolic items, etc.)*			
☐ **The RRC has reviewed the request and recommends approval.** *(Forward request, including justification, to Statewide Religious Review Committee [SRRC].)* ☐ **The RRC has reviewed the request and recommends approval with the following restrictions.** *(E.g., request is inappropriate for some security levels or may qualify for group/congregate use under the direction of staff or volunteer, etc.)* ☐ **The RRC has reviewed the request and recommends disapproval** *(Include justification for disapproval below. Forward to SRRC. Inmate appeal in this matter must include a copy of this dissaproval.)*			
JUSTIFICATION/RESTRICTIONS/COMMENTS: *(Must include justification and/or restrictions.)*			
RRC CHAIR SIGNATURE	**DATE**	**WARDEN'S SIGNATURE**	**DATE**

Distribution: Original: SRRC Chair **Copies:** RPOU, Warden, RRC Chair, Inmate

RELIGIOUS PERSONAL PROPERTY MATRIX (RPPM) REQUEST FOR ADDITIONAL ITEM

PART III - COMPLETED BY STATEWIDE RELIGIOUS REVIEW COMMITTEE (SRRC)

Upon review of Part I, Part II and supporting information, the SRRC acts as follows:

☐ **APPROVED for Director's review** ☐ **APPROVED as amended for Director's review** ☐ **DISAPPROVED**

JUSTIFICATION/RESTRICTIONS/COMMENTS:

SRRC CHAIR SIGNATURE **DATE**

PART IV - DIRECTOR'S DECISION

Upon review of Part I, Part II and supporting information submitted by the inmate, the Director acts as follows:

☐ **APPROVED** ☐ **APPROVED as amended** ☐ **DISAPPROVED**

JUSTIFICATION/RESTRICTIONS/COMMENTS:

DIRECTOR'S SIGNATURE **DATE**

INSTRUCTIONS FOR CDCR 2279 DISTRIBUTION PROCESS

Part I: This section completed by the inmate and submitted to the RRC for consideration. *(One item per form)*

Part II: RRC will review request and complete Part II of the form, including Justification/Restrictions/Comments. The warden will sign and date this section then forward to the SRRC, Division of Adult Institutions, GP-Males, Attn: Associate Director (CDCR Form 271 (Rev. 02/12) - Headquarters' Route Slip).

Part III: SRRC will review request for additional item. The SRRC Chair will then forward the recommendation to the Director's Office.

Part IV: Director will approve or disapprove, sign, date, and return form to SRRC Chair.

The SRRC Chair will distribute copies to the following: Religious Programs Oversight Unit (RPOU), warden, RRC Chair and inmate as indicated in the distribution list below. SRRC to retain original.

The RPOU will submit approved changes to the Regulations and Policy Management Branch. Inmates may not possess approved items until the regulatory process is complete and a new RPPM is published.

FINAL STATEMENT OF REASONS

The Initial Statement of Reasons (ISOR) is incorporated by reference.

UPDATES TO THE INITIAL STATEMENT OF REASONS:

The California Department of Corrections and Rehabilitation (CDCR or the department) published Notice of Change to Regulations (NCR) 21-14 on December 3, 2021, which began the public comment period. On the same day, NCR 21-14, including the text of proposed regulations and the ISOR, was mailed to persons who requested to be placed on the department's mailing list. On December 9, 2021, NCR 21-14 was posted on the department's website. On January 3, 2022, Notice of Extension of Written Public Comment Period was mailed to persons who requested to be placed on the department's mailing list to receive notifications of rulemaking actions and posted on the department's website. The written public comment period for this regulatory action occurred from December 3, 2021 to February 4, 2022. Eleven written public comments were received during the public comment period. The comments are summarized and responded to below under the heading *Summaries and Responses to Written Public Comments Received During the Initial Comment Period*. A public hearing was initially not scheduled due to the state of emergency, COVID-19 pandemic. On December 13, 2021, the department received a request for a public hearing. On January 11, 2022, the department posted on its website and mailed a Notice of Teleconference Public Hearing to persons who requested to be placed on the department's mailing list to receive notifications of rulemaking actions. A Teleconference Public Hearing was held on January 21, 2022. There were three speakers at the public hearing. These comments are summarized below under the heading *Summaries and Responses to Public Hearing Comments.*

Form CDCR 2279 (Rev. 10/21), Religious Personal Property (RPPM) Request for Additional Item, is incorporated by reference into the regulations. The information requested on the CDCR Form 2279 is required to comply with the Religious Land Use and Institutionalized Persons Act as further clarified by *Rhoades v. Montgomery*, *Taylor v. Hubbard* and the *Rouser v. White* Settlement Agreement. These documents have been available throughout this rulemaking action and will continue to be made available.

After publication of the Notice of Proposed Regulations, it was determined that additional changes were necessary. The Notice of Change to Text as Originally Proposed (Renotice) was distributed by mail on March 7, 2022 to those who provided comments during the public comment period, and was posted on the department website on the same day. The department accepted public comments from this date through March 25, 2022. Two comments were received during this period; however, the comments were not specific to the Renotice text changes, and therefore were not summarized and responded to in the Final Statement of Reasons per Government Code section 11346.8.

During the Renotice, the following changes were made to the Text as Originally Proposed:

The Religious Personal Property Matrix (RPPM) was revised to remove the proposed text "CCCMS, EOP," and to add the word "and" before "RC" in the "Considerations" narrative section. This change is made in response to a public comment asserting the proposed text may violate the *Coleman* settlement agreement.

The reference to "5 cups" is replaced with "17 ounces" in regards to the description for the quantity of "12 hanks" under the item "Beading Materials." This change is necessary to provide an equivalent unit of measure for beads that are not sold in "hanks."

It was necessary to amend the proposed regulations a second time for additional clarity concerning possession of the items “Scarf,” “Prayer Shawl,” and “Sage.” On June 8, 2022, a second Notice of Change to Text as Originally Proposed (Second Renotice) was distributed to those who provided comments during the initial public comment period and during the March 7, 2022 Renotice. The department accepted comments from this date through June 23, 2022. No public comments were received for this Renotice.

During the Second Renotice, the following text changes were made:

The item “Scarf” was reorganized within the RPPM for consistency and easier readability. The item “scarf” was removed from the item category “Clothing: Prayer Shawl” and added as allowable property for male inmates under the category “Clothing: Head Gear – Males” as the item “Scarf” is already listed as allowable property for female inmates in the category “Clothing: Head Gear – Females.”

The allowable dimensions for the item “Prayer Shawl” were changed from 60” x 60” to 50” x 72” as the item is available for purchase by department vendors in the size of 50” x 72.”

The item “Common Sage” was amended to “White Sage” as common sage is more typically used in cooking while white sage is more commonly used in incense rituals and as a fragrant plant.

This regulatory action amends the Religious Personal Property Matrix, which is incorporated by reference into section 3190. In the proposed regulations, the Revision date of the RPPM reads “12/3/21”; however the revision date will be updated upon approval to the date the regulations go into effect, January 1, 2023.

For additional clarity, the text, “The following five property lists are incorporated by reference” is added to section 3190(b) concerning the property schedules.

Non-substantive formatting changes and typographical corrections were made throughout for additional clarity.

DETERMINATIONS, ASSESSMENTS, MANDATES, AND FISCAL IMPACT:

The department has determined that no alternative considered would be more effective in carrying out the purpose for which the regulation is proposed, or would be as effective and less burdensome to affected private persons, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the action proposed. This determination was reached by a consensus of the department’s Division of Adult Institutions.

Except as set forth and discussed in the summary and response to the comments received, no other alternatives have been proposed or otherwise brought to the department’s attention that would alter the department’s decision.

The department has determined that this action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement pursuant to Part 7 (section 17561) of Division 4 of the Government Code.

The department has determined that no reasonable alternatives to the regulation have been identified or brought to the attention of the department that would lessen any adverse impact on affected private persons or small businesses than the action planned.

NOTE REGARDING CDCR FORMS INCORPORATED BY REFERENCE (CCR, TITLE 1, SECTION 20):

The Religious Personal Property Matrix (RPPM) is incorporated by reference and was made available to the public throughout this rulemaking process, and will continue to be made available upon request.

The department uses over 1,500 regulatory forms, including the above-referenced document. Because of this high volume, it would be unduly cumbersome, expensive, and impractical to print all the forms in Title 15 due to the space needed for these forms and the high cost of printing all of these forms. Therefore, department forms are incorporated by reference into the Title 15 within their relevant section, when appropriate.

SUMMARIES AND RESPONSES TO WRITTEN PUBLIC COMMENTS RECEIVED DURING THE INITIAL COMMENT PERIOD:

COMMENTER #1

Comment 1A: Commenter objects to the proposed regulations as they restrict the inmate's ability to produce religious regalia in violation of the Religious Land Use and Institutionalized Persons Act (RLUIPA).

Response to Comment 1A: The RPPM complies with RLUIPA as stated in the Informative Digest / Policy Statement Overview of the Notice of Proposed Regulations, and the Initial Statement of Reasons for this regulatory action.

Comment 1B: Commenter states the colors red and blue are restricted due to gang affiliation, but states these colors have nothing to do with Native American ways. Commenter states staff need to be trained better to eliminate inconsistencies within the department, as Receiving and Release (R&R) staff arbitrarily send things back to vendors. Commenter states that as a result, local vendors can no longer afford to keep their contracts with CDCR due to fees for returned items and restocking.

Response to Comment 1B: This comment is not directly applicable to the proposed regulatory change in that red and blue are already restricted colors in the previous RPPM. The RPPM color restrictions are applicable to all inmates. CDCR cannot allow special consideration to allow one group access to colors that are denied for another group. With that being said, red and blue can be used as part of multicolored items.

Comment regarding R&R staff arbitrarily sending things back to the vendors is not directly applicable to the proposed regulatory change. Numerous changes are being incorporated into the Religious Personal Property Matrix (RPPM) to provide more precise language as to what is allowed or disallowed property at all CDCR institutions.

COMMENTER #2

Comment 2A: Commenter states that amending the item "musk (any)" to specify only two specific musks authorized for possession penalizes and restricts inmates who have not misused or abused their right to practice their religion. Commenter states that what the department is doing by restricting these religious oils is making a determination as to what is or is not religious.

Commenter states the department's claims this change is needed due to safety and security concerns are inaccurate and misleading. Commenter notes that the ISOR also states "restriction on oil scents and musk scents is necessary to discourage vendors from shipping

contraband products labeled as religious oils or relabeling popular non-religious designer scents as 'musk' at the request of inmates or third-party persons ordering for inmates." Commenter further states ingredients for musk oil include a substitute for an animal's scent gland then the oil is then combined with other fragrances. Commenter states as all these musks are composed by a designer's intent, they are "designer scents" even "common musk."

Commenter states that musk restrictions are added as inmates are forced to use fragrance oil to mask the smell of contraband items, such as the manufacturing of "pruno," and cannabis or chemical "spice" smoke. Commenter states that it is common for the pungent, sour, stinking odors of contraband and general unwashed, sweaty body odors to be wafting through the housing units. Commenter states that inmates found with contraband do not receive any disciplinary action, as the contraband is simply disposed of once discovered and states that rather than adding additional restrictions to the possession of religious oils, institution staff should do their jobs to prevent the manufacturing of contraband. Commenter states that the housing building's trash is evidence of abuse of items or of manufacturing contraband.

Response to Comment 2A: In accordance with *Cutter vs. Wilkinson* (544 U.S. 709 (2005)) regarding RLUIPA, the United States Supreme Court held that prison security is a compelling state interest. The RPPM is not issued to "penalize and restrict" inmates in their religious practice. The RPPM provides a list of religious personal property items that inmates may possess that have been determined not to provide safety and security concerns. The masking of contraband smells is a safety and security concern. The commenter is encouraged to report the pungent smell so that institution staff can address his concerns.

Comment 2B: Commenter states that he uses fragrance oil for his hygiene as he values cleanliness and hygiene.

Response to Comment 2B: The Commenter's stated use of fragrance oils for the purpose of cleanliness and hygiene is outside the scope of the RPPM which lists items specific for religious use. However, in response, the Authorized Personal Property Schedule lists numerous approved items under the category of Personal Care/Hygiene that can be purchased for general use, such as after-shave, body powders, deodorant/antiperspirant and other products.

Comment 2C: Commenter states it is clear that whoever wrote the proposed regulations does not understand the concept of the use of religious fragrances, as the ISOR reads, "Oils are included on the RPPM for inmate religious prayer use and are not intended for use as a substitute cologne or perfume." Commenter states employing restrictions under the guise of safety and security, the department shows a lack of understanding and is shortsighted as valid regulations and policies already exist that legitimately safeguard safety and security and there is no need to manufacture an "overly broad restrictive policy.

Response to Comment 2C: Every item listed on the proposed RPPM was considered and approved by the Statewide Religious Review Committee that includes senior prison administrators from headquarters and the institutions in determining the legitimate and necessary safety and security safeguards. All items on the proposed RPPM have also been reviewed by the Office of Correctional Safety for additional safety and security verification. See Response to Comment 2A.

Comment 2D: Commenter states restriction has a negative economic impact on California businesses further limiting and eliminating existing small business jobs and failing to consider reasonable alternatives that are less burdensome on individually held religious beliefs and practices.

Response to Comment 2D: The proposed changes to the RPPM are expected to increase the opportunity for inmate religious practice in CDCR institutions while maintaining legitimate safety and security concerns. The overall changes to the RPPM are expected to have a minimal if not a positive impact on California businesses as numerous previously disapproved items have been added and the limiting of the variety of religious oil scents is not a reduction of the total quantity limit of religious oils that inmates are allowed to purchase.

COMMENTER #3

Comment 3A: Commenter states the department has no understanding of Native American Religion.

Response to Comment 3A: This comment is not directly applicable to the proposed regulatory change. However, CDCR employs Native American Spiritual Leaders (NASL) throughout many institutions, who are consulted regularly on matters specific to Native American traditions and religious personal property.

Comment 3B: Commenter states that the color red for headbands is significant as every color headband has a purpose and is used for a distinct ceremony. The color red is prohibited from possession.

Response to Comment 3B: This comment is not directly applicable to the proposed regulatory change in that red as a stand-alone color was prohibited in the previous RPPM. However, red is authorized as one of numerous colors for use in multi-colored items. See Response to Comment 1B.

Comment 3C: The Religious Personal Property Matrix does not include Prayer Ties item which are a personal connection to the divinity.

Response to Comment 3C: This comment is not directly applicable to the proposed regulatory change, as Prayer Ties were not requested to be included in the RPPM. However, the use of Prayer Ties may be included as part of congregant ceremonies in the Native American Spiritual Grounds (NASG) or Outside Religious Grounds.

Comment 3D: The Religious Personal Property Matrix does not include pipe ceremony.

Response to Comment 3D: This comment is not directly applicable to the proposed regulatory change. The RPPM only lists items that are approved as religious personal property. Pipe ceremonies are congregated group religious activities that may be conducted in the NASG.

Comment 3E: Although inmates housed in the Security Housing Unit (SHU) are authorized to possess Medicine Wheels, SHU inmates are not authorized to possess the items necessary to make the Medicine Wheel. Commenter states that items must be purified and blessed according to ritual, but inmates are not able to prepare the items. Commenter also adds that SHU inmates are not authorized to possess items used to purify or bless such, as sweet grass, sage, sap, and herbs, among others.

Response to Comment 3E: Inmates housed in the SHU have very limited authorized personal property for safety and security reasons. While the previous RPPM did not authorize any medicine wheel or material to make the Medicine Wheel to be in the possession of any inmate, the RPPM is currently being modified to add the medicine wheel for non-segregated housing (Administrative Security Units, Psychiatric Security Unit, or SHU inmates).

COMMENTER #4

Comment 4A: Commenter states the proposed regulations are overly restrictive and states most inmates are not able to navigate CDCR Form 2279, Religious Personal Property Matrix (RPPM) Request for Additional Item.

Commenter states that he has submitted numerous complaints to the department advising that the Statewide Religious Review Committee largely ignore CDCR 2279 requests, resulting in denying inmates items needed to practice their religious faith. Commenter states that because so many CDCR Forms 2279 are "lost" or ignored, he must resubmit multiple times or file an appeal concerning the CDCR Form 2279 and it takes a long time for review and response.

Commenter states that some institutions do not hold the required monthly and annual meetings and the requests for additional items are not addressed. Commenter states that CDCR finds it easier to deny and deprive and are only motivated into action under pressure from civil litigation as it is costly to the department. Additionally, Commenter states that as many inmates file civil actions on their own, many settlements allow CDCR "gets away with" these denials of Constitutional Rights.

Response to Comment 4A: This comment is not directly applicable to items listed in the proposed regulatory change. Inmates who do not receive a timely response to their submitted CDCR Form 2279 may address their concerns via the grievance process.

Comment 4B: Commenter states the department's reasoning for limiting musk oils is due to safety and security concerns, but the restriction is not reasonable as required by Penal Code, and states that even approved fragrances can cover up contraband smells. Commenter states restricting prayer oils infringe on his ability to practice his faith as specific fragrances are required for certain religious practices.

Response to Comment 4B: Inmates may request additional specific fragrances to be considered for inclusion in the RPPM. See Response to Comment 2C.

Comment 4C: Commenter feels dismissed and ignored by CDCR staff and feels that Public Comment Periods are a "joke" as the public comment periods are required, but not substantially considered by the department. Commenter states religious freedoms will always be under attack by CDCR.

Response to Comment 4C: The above comment is either insufficiently related to the specific action proposed or to the procedures followed by the department in proposing or adopting these regulations, or generalized or personalized to the extent that no meaningful response can be formulated by the department in refutation or accommodation of the comment, therefore the comment is irrelevant pursuant to Government Code, section 11346.9(a)(3).

Comment 4D: Commenter states that CDCR is not sincerely interested in or motivated to provide religious accommodations to the inmate population as CDCR litigation is funded by public funds and has legal representation for unnecessary litigation in the Attorney General's Office. Commenter suggests CDCR pay for its own litigation costs.

Response to Comment 4D: See Response to Comment 4C.

Comment 4E: Commenter makes the following suggestions for allowable religious personal property:

- Drawing Powder - Include Goofer's powder (a mix of grave dirt and eggshells).
- Prayer Oils - Should not be restricted and can be under controlled storage.

- Incense - Should be authorized to possess 50 pieces in cell.
- Rugs/mats - Should not include color restrictions as the item is not a piece of clothing that is affiliated with a disruptive group.
- Candles - Should be authorized as a congregate item. Suggests: "Votive size candles approx. 2 ½ inches tall and in diameter, of any color, not to exceed 20 candles per congregate locker under control as well as electronic candles for those who use them."
- Carrying Bags - Should be any material, including the most common construction materials of leather, satin, or velvet.
- Chalk - Should be kept as authorized item as chalk allows inmates to mark their cell floor when needed to perform a religious ritual without permanently marking State property.
- Scarfs - Should also be authorized for males as they are integral to specific religions. Restricted colors should only be worn in-cell or for religious services only. Additionally, allowing scarfs for females only is gender discrimination.
- Clothing - Should include robes with hoods of any color and can be restricted to cells and religious services. Restricted bandana colors should also be authorized with this item.
- Herbs - Should not be limited to the herbs listed in the Religious Personal Property Matrix as Receiving and Release (R&R) staff can look up received herbs before releasing the item to the inmate. The alternative to R&R research of this item is local approval for individual order.
- Beading Materials - Suggests that beads which are not already approved may be made of natural materials including stone, clay, bone, Horn, and wood. Threading material should be unlimited as this item runs out quickly during a craft.
- Bowls/Chalice/Handwashing Cup - The construction material should be amended to include natural materials such as wood, bone, Horns, and non-glazed ceramic/resin cast as some religions utilize the drinking Horn. Not including natural construction materials for the drinking Horn restricts access to a religious chalice for some religions. These natural construction materials should also be available to other religious items such as rune tiles.
- Wands or gander sticks - The size limit for this item should be removed as this item is mostly handcrafted by the inmate and usually exceed 12 inches in length.

Response to Comment 4E:

This comment is not directly applicable to the proposed regulatory change; however, CDCR will address specific points as follows:

- Goofer's Powder: Was not requested to be part of RPPM.
- Controlled storage: With the exception of legal materials, CDCR does not maintain inmate personal property as "controlled storage" to be used by inmates upon request.
- Incense: Incense is not allowed for a variety of safety and security reasons.
- Rugs/mats color restrictions: Any color besides white, gray or multicolor has been determined to be a safety and security concern.
- Candles as a congregate item: This comment is not applicable to the proposed regulatory change in that the RPPM does not pertain to congregate items, only personal items.
- Carrying Bags of any material: The carrying bags specification requiring the bags to be clear plastic or vinyl are for safety and security concerns to allow custody staff to search bag contents without the need to physically handle the inmate's personal religious property.

- Chalk: Chalk is allowed property that is currently listed on the Approved Personal Property Schedule (APPS).
- Clothing: Robes with hoods are not directly applicable to the proposed regulatory change, as this item was not requested to be included in the RPPM. The RPPM does allow a variety of headgear options that may be used as a least restrictive alternative. The color restrictions for bandanas are applicable to all areas including cells and religious services for safety and security concerns.
- Herbs: The RPPM provides a list of herbs that inmates may possess that have been determined not to provide safety and security concerns. Listing herbs on the RPPM provides statewide consistency and does not burden local institution staff of having to conduct redundant research also being conducted at other institutions.
- Beading Materials: Commenter's request for beads of natural material is already a part of the current and proposed RPPM. Threading material sinew and string quantity have been increased from 50 feet to 75 yards, which provides sufficient quantity to complete various crafts.
- Bowls/Chalice/Handwashing Cup construction material: The RPPM provides a list of religious property items that inmates may possess that have been determined not to provide safety and security concerns. Bowls, chalices and handwashing cups made of wood or soft plastic are already approved per the previous and proposed RPPM. Other natural materials such as bone, horns and ceramic materials have not been approved for safety and security concerns.
- Wands or gander sticks: The RPPM provides a list of religious property items that inmates may possess that have been determined not to provide safety and security concerns. Wands have not been approved due to safety and security concerns. There has been no request for "gander sticks."

Comment 4F: Commenter states that color restrictions should not apply to items that are not worn, such as a prayer rug, or to the religious robe as some religions require a specific color for a specific religious ritual or service. Commenter suggests restricting religious robes to a cell or religious service. Commenter adds that some religious robes have hoods and although hoods are not allowed in prison, restricting hoods to a cell would remove the security concern as wearers would not be able to affiliate with a disruptive group, and as inmates are assigned to a specific cell, the inmate's identity would not be unknown.

Response to Comment 4F: Robes with hoods are not directly applicable to the proposed regulatory change as this item was not requested to be included in the RPPM. The RPPM does allow a variety of headgear options that may be used as a least restrictive alternative. See Response to Comment 1B.

Comment 4G: Commenter states religious pelts needs to be added as allowable property as some religions require pelts during religious rituals.

Response to Comment 4G: Religious pelts are not directly applicable to the proposed regulatory change, as this item was not requested to be included in the RPPM. Inmates may request for items to be added to the RPPM utilizing CDCR Form 2279.

Comment 4H: Commenter states the hardback Book of Shadows needs to be added as allowable religious property as the Book of Shadows is required for witchcraft faith and is important to the person practicing the religion.

Response to Comment 4H: This comment is not applicable to items listed in the proposed regulatory change. Inmates may receive publications from any publisher, book store or book distributor that does mail order business, as per Title 15, section 3190(k)(7). Hardback books may be received if the hardback cover is removed as per Title 15, section 3134.1(c). Including books as part of the RPPM is not necessary, as this would be a redundant approval to Title 15 sections 3190(k)(7) and 3141.1(c).

Comment 4I: Commenter states that even inmates who are not authorized for handicraft projects should be authorized to possess craft materials needed to make religious items to practice their faith.

Response to Comment 4I: The RPPM lists items approved for all inmates to possess. Inmates are not required to be authorized for handicraft projects to possess craft materials listed in the RPPM.

Comment 4J: Commenter states that vendors of religious items should also be protected by the First Amendment because religious freedom is protected just like freedom of speech.

Response to Comment 4J: This comment is not applicable to the proposed regulatory change. Further, without more specificity, CDCR is unable to determine how the regulatory changes to the RPPM allegedly violate the First Amendment rights of vendors of religious items.

COMMENTER #5

Comment 5A: Commenter states the restrictions of prayer oils violate his First Amendment Right to Freedom of Religious Exercise Protection under the Religious Land Use and Institutionalized Persons Act (RLUIPA), 42 United States Code section 2000cc-1. Commenter states that specific fragrances and oils are needed for a specific religious ritual and the restriction prevents him from practicing his faith.

Response to Comment 5A: See Response to Comment 2A. The United States Supreme Court held that prison security is a compelling state interest which may include the restriction of specific oil scents. Inmates may request specific oil fragrances utilizing CDCR Form 2279 and submitting the request to the local institution Religious Review Committee (RRC). Approved fragrances will be included in the next revised RPPM.

Comment 5B: Commenter states that although the department cited the restriction of musk and fragrance oil is for safety and security concerns, the restriction does not meet the requirements established in the Penal Code for "reasonable" restrictions for safety and security.

Response to Comment 5B: See Response to Comments 2C and 4B. CDCR has determined that removing the word "any" for musk scents is a "reasonable" restriction to eliminate the safety and security risk for introducing strong scents that can mask smells of contraband items. Inmates may request specific scents to be added to the RPPM.

COMMENTER #6

Comment 6A: Commenter states the proposed restrictions, violate the First and Fourteenth Amendments of the US Constitution, the RLUIPA, "Articles" I and IV of the California Constitution, law under protections of Indigenous Peoples' Religious Freedoms, and International Covenant on Civil and Political Rights.

Response to Comment 6A: See Response to Comment 2C. This comment is not applicable to the proposed regulatory change. With that being said, CDCR's policy toward inmate religious practice is in accordance with all constitutional and statutory law, including, but not

limited to, the First and Fourteenth Amendments of the United States Constitution, the California Constitution, and RLUIPA.

Comment 6B: Commenter states the proposed Religious Personal Property Matrix (RPPM) removes the religious significance of allowable items by replacing the term "religious artifacts" with "Personal Property Items" that are permitted for possession as a privilege based on good behavior.

Response to Comment 6B: This comment is not applicable to the proposed regulatory change; however, the words "religious artifacts" are not being replaced as those words are not included in either the previous or proposed RPPM.

Comment 6C: Commenter states the revised RPPM removes the following items: medicine bags; herbs such as sage, sweet grass, cedar, copal, bitterroot, and Osha root; prayer fans; dream catchers; and soft leathers. Commenter states these items are not a safety and security risk and should not have been removed.

Response to Comment 6C: The items listed are not being removed, but categorized under a different heading. The "Medicine Bag" is listed under "Spiritual Bag." The herbs were previously listed under the heading of "Assorted Herbs" and will now be listed under the heading of "Herbs."

Comment 6D: Commenter states that CDCR is making these amendments without the required religious collaboration and they do not meet the emergency regulations standards. Commenter states the department is taking advantage of the state of emergency resulting from the COVID-19 pandemic to push the proposed regulations on an emergency basis and states the proposed regulations violate inmate's Constitution rights.

Response to Comment 6D: This comment is not applicable to the proposed regulatory change as the RPPM regulation is not being processed as an "emergency regulatory change" but is being processed as a standard regulation change and is proceeding through the standard regulatory process.

Comment 6E: Commenter states CDCR cited safety and security reasons for the restrictions, but there is no evidence or examples that religious items have been used to violate safety and security.

Response to Comment 6E: See response to Comment 2C.

Comment 6F: Commenter states Native people's constitutionality is being attacked with the proposed regulations and their ability to practice religion freely, as the rules are being amended by non-Native persons.

Response to Comment 6F: This comment is not applicable to the proposed regulatory change. Further, without more specificity, CDCR is unable to determine how the regulatory changes to the RPPM allegedly attack Native people's constitutionality. See Responses to Comments 2C, 3A and 6A.

Comment 6G: Commenter states the State has passed numerous laws in recent years concerning CDCR's rehabilitative programs and the proposed regulations are in conflict with the goal as they restrict religious items.

Response to Comment 6G: See Response to Comment 4C. Comment is vague and ambiguous as to how the proposed regulations are in conflict with CDCR rehabilitative programs.

COMMENTER #7

Comment 7A: Commenter objects to the proposed regulations as they violate the Religious Land Use and Institutionalized Persons Act and advises he will be filing a civil rights action lawsuit.

Response to Comment 7A: See Response to Comment 2C.

Comment 7B: Commenter states there is no legitimate penological interest for limiting prayer oils.

Response to Comment 7B: See Responses to Comments 2C, 4B, and 5A.

Comment 7C: Commenter states the proposed regulations have a significant statewide adverse economic impact affecting California business as religious items vendors will be restricted from selling a big portion of their inventory due to the restrictions for musk oils, but the Notice document for the proposed regulations states there is no fiscal impact to California businesses.

Response to Comment 7C: See Response to Comment 2D. Religious oil vendors may sell any impacted musk oil scents to non-CDCR customers.

COMMENTER #8

Comment 8A: Commenter states the amendments and will result in litigation for CDCR.

Response to Comment 8A: See Response to Comment 4C.

Comment 8B: Commenter states each institution will interpret and enforce the regulations differently resulting in violating the religious rights and freedoms of members of the Native American Faith.

Response to Comment 8B: See Response to Comment 1A. In addition, the RPPM provides an approval/denial process in which every item requested for inclusion into the RPPM is reviewed by the Statewide Religious Review Committee. This process provides statewide consistency and does not burden local institution staff with having to conduct redundant research also being conducted at other institutions.

Comment 8C: Commenter states CDCR has long-since not respected the Native American Faith (NAF). This is further evidenced by replacing the term “religious artifacts” simply to items. Commenter states that Receiving and Release officers, the institution staff in the mailroom, already do not acknowledge NAF religious items and states this language will allow for further discrimination.

Response to Comment 8C: See Responses to Comments 1A and 3A. The RPPM is not replacing the term “religious artifacts” as that term was not used in the previous or proposed RPPM.

Comment 8D: Commenter states that CDCR has no understanding of the needs of “AMI” practitioners as CDCR is restricting religious items under the guise of safety and security, but states the department has not provided the required proof to infringe upon these religious rights. Commenter states this is clear as CDCR is attempting to remove authorization of such religious items such sage, cedar, sweet grass, medicine bags and restrict specific colors for beading materials.

Response to Comment 8D: CDCR is not attempting to remove authorization for religious items such as sage, cedar, sweet grass, medicine bags. There is no change to the types of herbs approved. The RPPM is revising the Herbs section by removing the section titled "Assorted Herbs" and replacing it with a new section titled "Herbs." See Response to Comment 2C. Regarding color restrictions, see Responses to Comments 1B and 3B.

COMMENTER #9

Comment 9: CDCR is being unnecessarily restrictive as there is no penological interest for limiting the musk oils that are authorized for purchase. Commenter requests for CDCR to not implement further restrictions to religious oils in subsequent amendments to the RPPM.

Response to Comment 9: See response to Comment 5B.

COMMENTER #10

Comment 10A: Commenter states that only authorizing for possession of religious items that are "white or gray as the predominant color" places an undue burden on the Buddhist practice violating his rights under the First and Fourteenth Amendments, RLUIPA, and PC section 5009.

Commenter states that for the last 15 years, he has been authorized to possess religious items outside of these color restrictions, without safety and security incidences resulting from the possession of these items.

Response to Comment 10A: See Responses to Comments 1B and 2C. Comment is vague and ambiguous in that commenter does not specify how the color restrictions place an undue burden or prevent him or her from practicing the Buddhist faith, or which colors are required for his or her Buddhist practice. The addition of the color restrictions was necessary as a variety of colors not listed on the previous RPPM do pose safety and security concerns. Colors other than white or gray may be included as part of multi-colored items.

Comment 10B: Commenter disagrees the anticipated benefits of the proposed regulations will be to minimize further litigation against the department as stated in the Initial Statement of Reasons. Commenter states that inmates who are prohibited from possessing needed religious items in order to practice their faith will file lawsuits to protect their religious rights.

Response to Comment 10B: This comment is not applicable to the proposed regulatory change in that CDCR is attempting to minimize litigation by informing inmates and staff of what items inmates are permitted to possess and are not to be inappropriately taken from them for use in their religious practices. This regulation change also includes the process by which inmates may request additional items to be listed in the RPPM.

COMMENTER #11

Comment 11: Commenter is concerned about the inclusion of Enhanced Outpatient Program (EOP) and Correctional Clinical Case Management System (CCCMS) to the "Considerations" section of the RPPM stating that access to religious personal property items for inmates placed in these specialized programs is considered on a case-by-case basis. Commenter states that if the intent for adding this text is to allow discretion to allow or disallow religious personal property items to incarcerated individuals who are receiving mental health care at this level of care, this change discriminates against *Coleman* class members on the basis of their mental health conditions.

Commenter states The First Amendment and the Religious Land Use and Institutionalized Persons Act (RLUIPA) requires CDCR to provide detailed reasons for restricting a personal item for possession for "safety and security concerns."

Accommodation: "CCCMS" and "EOP" are removed from RPPM Item 9 Considerations.

Response to Comment 11: CDCR concurs with comment and has removed the acronyms "CCCMS, EOP" from RPPM Item 9, Considerations, concerning authorized possession of religious items. This change to text as originally proposed was noticed to the public in the Renotice issued March 7, 2022.

SUMMARIES AND RESPONSES TO PUBLIC HEARING COMMENTS:

Teleconference Public Hearing: Held January 21, 2022, at 10:00 a.m.

Three speakers provided oral comments at the telephonic public hearing.

Speaker #1

Comment by Speaker 1: Speaker states it is a right, not a privilege for inmates to possess religious property. Speaker states CDCR should provide more religious property vendors so inmates are able to obtain needed religious property.

Response to Speaker 1: This comment is vague and ambiguous in that the RPPM does not deny the ability of inmates to possess personal religious property. Also, this comment regarding religious property vendors is not applicable as this regulatory change is specific to the RPPM and not to the religious vendors who sell items listed in the RPPM. Any vendor may apply to be included as an approved religious vendor.

Speaker #2

Comment by Speaker 2: Speaker requests CDCR provide more religious property vendors, and for approved vendors to offer a greater variety of religious items, so inmate friends and family sending packages to inmates are able to include needed religious property. Speaker states they sincerely hold their religious beliefs, but are limited with what they can send due to the lack of vendors.

Response to Speaker 2: Regarding the reference to the "greater variety of religious items, see Response to Comment 2C and Speaker 1.

Speaker #3

Comment by Speaker 3A: Speaker states CDCR should not prohibit inmates from possessing religious items, as the religious items are needed to practice their religion.

Response to Speaker 3A: CDCR authorizes inmates to possess all religious items as listed on the RPPM. All items listed on the RPPM have been reviewed and approved by the Statewide Religious Review Committee (SRRC). Inmates may request specific oil fragrances utilizing CDCR Form 2279.

Comment by Speaker 3B: Speaker states the State of California has been chipping away at citizens' religious rights, but states that inmates' practicing their faith does not endanger lives, but may aid in the inmate's rehabilitation, and should not be restricted.

Response to Speaker 3B: See Response to Comment 2C. Commenter does not provide sufficient specificity as to the allegation that "the State of California has been chipping away at citizen's religious rights", and as such, CDCR cannot respond more definitively to this comment.